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Attorneys for Defendant CHATTEM, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

EDWARD FULLER, individually and on behalf
of others similarly situated,

Plaintiff,

v.

CHATTEM, INC.,

Defendant.

Case No. 4:21-cv-05436-KAW

NOTICE OF RELATED CASES

Judge: Honorable Kandis A. Westmore

Pursuant to Civil L.R. 3-12, Defendant Chattem, Inc. (“Defendant”) states that the above-captioned case (the “*Fuller* Action”) is related to *Scilex Pharmaceuticals Inc. v. Sanofi-Aventis U.S. LLC*, et al., No. 4:21-cv-01280-JST (the “*Scilex* Action”), which was filed on February 23, 2021, and currently before Judge Jon S. Tigar in the Northern District of California. This case is also related to *Cruz v. Sanofi US Corporation*, No. 3:21-cv-05536-VC (the “*Cruz* Action”), which was filed on May 1, 2021, and is currently assigned to Judge Vince Chhabria.

This Court previously held that two other cases—*Kyla Tapia v. Sanofi-Avenitis U.S. LLC*, No. 4:21-cv-01942-JST (the “*Tapia* Action”) and *Donna Doss v. Hisamitsu America, Inc.*, No. 4:21-cv-01943-JST (the “*Doss* Action”)—were also related to the *Scilex* Action. *Scilex* Action, Dkt. 49.

“An action is related to another when: (1) The actions concern substantially the same parties, property, transaction or event; and (2) It appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different Judges.” L.R. 3-12(a)(1)–(2). The parties agree that, under this standard, the *Scilex* Action, *Fuller* Action, and *Cruz* Action are plainly related.

As to the first factor, the *Scilex* Action, *Tapia* Action, *Fuller* Action, and *Cruz* Action seek relief against Sanofi or its subsidiary Chattem under state unfair competition laws related to the alleged advertising claims for lidocaine patch products marketed under the brand names IcyHot® or Aspercreme® by Chattem. Compare *Scilex* Action Dkt. 42, *Tapia* Action Dkt. 1, with *Fuller* Action Dkt. 1 and *Cruz* Action Dkt. 1. As to the second factor, there would be unduly burdensome duplication of labor and expense if the cases are not related. For example, if the four cases survive the pleading stage, Defendants will likely need to produce many of the same documents and witnesses in each action. Accordingly, discovery should be coordinated to avoid waste and duplication and to ensure efficient resolution.

Defendant has filed a motion for administrative relief in the above-captioned action requesting consideration of whether the cases should be related and the *Fuller* Action be reassigned to the Honorable Jon S. Tigar.

1 Dated: July 28, 2021

Respectfully submitted,

2 WEIL, GOTSHAL & MANGES LLP

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4 By: /s/ Randi Singer
RANDI SINGER

5 Attorneys for Defendant CHATTEM, INC.